

AMENDED IN ASSEMBLY MAY 16, 1996

AMENDED IN ASSEMBLY MAY 14, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 3145

Introduced by Assembly Member Granlund

February 23, 1996

An act to amend Section 27491.44 of, ~~to add Section 27515 to~~ the Government Code, and to add Section 7184.5 to the Health and Safety Code, relating to coroner's inquests.

LEGISLATIVE COUNSEL'S DIGEST

AB 3145, as amended, Granlund. Coroner's inquests: anatomical gifts.

Existing law requires the coroner of each county to conduct an inquest of deaths that occur under specified circumstances. Existing law, known as the Uniform Anatomical Gift Act, permits persons, under specified conditions, to donate all or parts of their body for specified purposes after their death. Existing law authorizes a coroner to, among other things, assist in the implementation of the Uniform Anatomical Gift Act.

This bill would authorize a coroner to enter into agreements with one or more procurement organizations to coordinate organ recovery procedures and to contract with, or receive assistance of any kind from, any public or private entity in order to provide certain prescribed types of education and training for the coroner's personnel. ~~The bill would also provide that when a deceased person whose death is subject~~

~~to an inquest by the county coroner has donated all or part of his or her body pursuant to the Uniform Anatomical Gift Act or other legal means, the coroner, if he or she has notice of the donation, shall conduct any required examination or autopsy of the body in a manner that is compatible with the preservation of the tissues or organs for transplant.~~

~~This bill would permit any physician or other authorized health care professional who is authorized to remove an anatomical gift from a donor whose death is subject to an inquest by the county coroner to remove the anatomical gift after giving notice to the coroner, but would permit the coroner to be present during the removal and take tissue samples, as specified.~~

~~This bill would impose a state-mandated local program by requiring the county coroner acting under these circumstances to compile and maintain specified records in connection with the removal.~~

~~This bill would also require the physician or other health care professional who is conducting an anatomical gift removal to compile and maintain specified records in connection with the removal.~~

Existing law requires each general acute care hospital to develop a protocol for identifying potential organ and tissue donors that requires certain inquiries to be made or that provides for the hospital to contact an organ and tissue procurement organization at the time a potential donor is identified and for the procurement organization to make those inquiries.

This bill would require, for any agreement between a coroner or medical examiner and an organ and tissue procurement organization for the release and removal of parts of bodies within his or her custody, the organ and tissue procurement organization to develop a protocol for tissue or whole organ recovery that is approved by the coroner or medical examiner prior to release or removal of any parts of bodies and that contains certain prescribed procedures and requirements.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for~~

~~making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that no reimbursement shall be made from the State Mandates Claims Fund for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature hereby finds and
2 declares that:

3 (1) In 1996, more than 44,000 Americans and more
4 than 3,000 Californians are awaiting suitable organs from
5 potential donors for life-saving or prolonging transplants.

6 (2) In 1996, as many as 1,000 Californians will die or will
7 cease to be viable transplant candidates while awaiting
8 organ donations.

9 (3) While enactment and implementation of the
10 Uniform Anatomical Gift Act and subsequent
11 amendments has had a salutary effect on organ donations,
12 more can be done to increase donation of tissue and whole
13 organs for transplantation.

14 (4) Since 1991, the County of San Bernardino has had
15 in place a protocol governing the recovery of tissue and
16 whole organs in coroner's cases that has protected
17 forensic pathology and other evidence needed by the
18 coroner in suspicious death cases, thereby permitting
19 timely release and recovery of tissue organs and donation.

20 (5) Over 18 months after its introduction and
21 implementation, application of that protocol resulted in
22 an increase in organ donations of 60 percent without
23 compromising evidentiary standards in any coroner's
24 case.

25 (6) That protocol has succeeded in its implementation
26 largely due to extraordinary cooperation between public

1 and law enforcement officials, health professionals, and
2 organ procurement and recovery agencies and teams.

3 (b) It is the intent of the Legislature in enacting this
4 act to encourage the adoption of similar protocols in
5 appropriate counties by fostering agreements between
6 organ procurement agencies and county coroners for that
7 and related purposes.

8 SEC. 2. Section 27491.44 of the Government Code is
9 amended to read:

10 27491.44. Notwithstanding any other provision of law,
11 the coroner is authorized to do all of the following:

12 (a) Assist the people of this state, as appropriate, in the
13 implementation of the Uniform Anatomical Gift Act
14 contained in Chapter 3.5 (commencing with Section
15 7150) of Part 1 of Division 7 of the Health and Safety Code,
16 and in the otherwise lawful utilization of medically
17 proven organ and tissue transplant procedures.

18 (b) Cooperate in the authorized removal and timely
19 disposition of human organs and tissue from the bodies of
20 deceased persons, including victims of homicide, in
21 accordance with law and accepted medical practice.

22 (c) Assist medical and health service agencies in
23 identifying donors of human organs and tissues, for
24 purposes of providing life-enhancing benefits of
25 transplant surgery to recipients under duly sanctioned
26 medical conditions.

27 (d) Ask the deceased person's next of kin, at the time
28 of notification of death, whether the deceased was a
29 donor or if the family was a donor family. If not, the
30 coroner is authorized to inform them of their option to
31 donate viable organs and tissues.

32 (e) Enter into agreements with one or more
33 procurement organizations to coordinate organ recovery
34 procedures within that coroner's jurisdiction or in
35 cooperation with other coroners throughout the state.

36 (f) Contract with or receive assistance of any kind
37 from any public or private entity for the purpose of
38 providing education and training to his or her personnel
39 in pathology or any other area of the healing arts and

1 sciences that will assist in timely determination of the
2 causes of death.

3 ~~SEC. 3. Section 27515 is added to the Government~~
4 ~~Code, to read:~~

5 ~~27515. Notwithstanding any provision of law to the~~
6 ~~contrary:~~

7 ~~(a) If a deceased person whose death is under~~
8 ~~investigation pursuant to this article is a donor of all or~~
9 ~~part of his or her body as evidenced by an advance~~
10 ~~directive, will, card or other document, or as otherwise~~
11 ~~provided in the “Uniform Anatomical Gift Act” (Chapter~~
12 ~~3.5 (commencing with Section 7150) of Part 1 of Division~~
13 ~~7), the coroner, or his or her designee, who has notice of~~
14 ~~the donation shall perform any examination, autopsy, or~~
15 ~~analysis of tissues or organs of the body required by law~~
16 ~~in a manner and within a time period compatible with~~
17 ~~their preservation for the purposes of transplantation.~~

18 ~~(b) A physician or other health care professional~~
19 ~~authorized to remove an anatomical gift from a donor~~
20 ~~whose death is under investigation pursuant to this~~
21 ~~article, may remove the donated part from the donor’s~~
22 ~~body for acceptance by a person authorized to become a~~
23 ~~donee, after giving notice to the coroner, or his or her~~
24 ~~designee, if the examination, autopsy, or analysis has not~~
25 ~~been undertaken in the manner and within the time~~
26 ~~provided in subdivision (a). The coroner, or his or her~~
27 ~~designee, shall be present during removal of the~~
28 ~~anatomical gift if, in his or her judgment, those tissues or~~
29 ~~organs may be involved in the cause of death. In that case,~~
30 ~~the coroner, or his or her designee, may request a biopsy~~
31 ~~of those tissues or organs or deny removal of the~~
32 ~~anatomical gift. The coroner, or his or her designee, shall~~
33 ~~explain in writing his or her reasons for determining that~~
34 ~~those tissues or organs may be involved in the cause of~~
35 ~~death and shall include the explanation in any records he~~
36 ~~or she is required to maintain by law.~~

37 ~~(c) The physician or health care professional~~
38 ~~performing a transplant subject to subdivision (b) shall~~
39 ~~file with the coroner a report detailing the condition of~~
40 ~~the part of the body that is the anatomical gift and its~~

~~relationship to the cause of death. If appropriate, the report shall include a biopsy or medically approved sample from the anatomical gift. The report shall become part of the coroner's report and any records the coroner is required to maintain by law.~~

~~SEC. 4.~~

SEC. 3. Section 7184.5 is added to the Health and Safety Code, to read:

7184.5. (a) In conjunction with entering into any agreement with any coroner or medical examiner for release and removal of parts of bodies within that official's custody and to further the purposes of Section 27491.45 of the Government Code, a procurement organization shall develop a protocol for tissue or whole organ recovery, as appropriate, that provides sufficient information on the medical and injury status of the deceased to permit release and removal of tissues and organs without undue prejudice to that official's investigation of, or inquiry into, the cause of death.

(b) The protocol described in subdivision (a) shall be subject to approval by the coroner or medical examiner before release or removal and shall provide for the following:

(1) Relevant information on the deceased to be given to the coroner or deputy coroner at the time of the initial request for permission to recover internal organs, including, but not limited to:

(A) Information identifying the deceased.

(B) Date and time of pronouncement of brain death.

(C) Name of procurement organizations and coordinator.

(D) Organs requested.

(E) Organ donor number and hospital.

(F) Apparent cause and manner of death.

(G) A brief description of alleged circumstances surrounding the death to the extent they are known at the time.

(H) The law enforcement agency and the name of the investigating officer handling the case.

(2) The following information, to be recorded by the organ procurement coordinator at the time of requesting permission for organ removal:

(A) The name of the deputy coroner contacted.

(B) The name of the pathologist contacted by the deputy coroner.

(C) Whether permission for removal was obtained at the time, including the date and time if permission was obtained.

(D) The coroner's case number assigned by the deputy coroner.

(E) If the request for organ removal is refused, the reason given for the refusal.

(3) A checklist to be completed prior to recovery of any tissue or organ by the procurement organization coordinator with the assistance, if necessary, of a physician attending the deceased, that includes, at a minimum, all of the following:

(A) medical record review to insure documentation of external injuries, fractures, and internal injuries.

(B) In cases of suspected child abuse, whether:

(i) A child abuse consult was obtained.

(ii) A computerized axial tomographic scan or magnetic resonance image of the head was obtained.

(iii) A radiological skeletal survey was done.

(iv) The presence or absence of visible injury to the back of the scalp, ears, nose, and mouth, or retinal hemorrhage has been documented.

(v) A coagulation screen report was in the deceased's records.

(C) A photographic record of visible external injuries.

(D) Admitting blood sample, if available, and the date and time the sample was drawn.

(4) A checklist of items to be provided to the coroner's office when the deceased's body is released after completion of organ recovery, including, but not limited to, all of the following:

(A) A copy of the deceased's medical records.

(B) Film documenting abnormal findings, if used.

1 (C) The information recorded pursuant to the
2 requirements of this subdivision.

3 (D) A sample of the deceased's blood, if taken on
4 admission.

5 (5) A form, completed by the physician and surgeon,
6 technician, or team performing the organ recovery
7 procedure and signed by the physician and surgeon, that
8 describes in sufficient detail all of the following:

9 (A) Tests used to determine the suitability for
10 transplantation of all tissue and organs recovered.

11 (B) Documentation of injuries and other
12 abnormalities, if any, noted or occurring during the organ
13 recovery procedure.

14 (C) The date and time organ recovery was started.

15 (D) Any other information on the state of the
16 deceased's body, tissues, or organs that the physician and
17 surgeon, technician, or team believes may assist the
18 coroner in his or her investigation or inquiry.

19 (c) The requirements of subdivision (a) shall not
20 apply in any county that does not have a Level II trauma
21 facility, as defined in Section 1798.160 and the regulations
22 adopted pursuant thereto.

23 ~~SEC. 5. No reimbursement shall be made from the~~
24 ~~State Mandates Claims Fund pursuant to Part 7~~
25 ~~(commencing with Section 17500) of Division 4 of Title~~
26 ~~2 of the Government Code for costs mandated by the~~
27 ~~state pursuant to this act. It is recognized, however, that~~
28 ~~a local agency or school district may pursue any remedies~~
29 ~~to obtain reimbursement available to it under Part 7~~
30 ~~(commencing with Section 17500) and any other~~
31 ~~provisions of law.~~

32 ~~Notwithstanding Section 17580 of the Government~~
33 ~~Code, unless otherwise specified, the provisions of this act~~
34 ~~shall become operative on the same date that the act~~
35 ~~takes effect pursuant to the California Constitution.~~